



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
---------------	-------------	----------------------	---------------------

08/261,537 06/17/94 STEINMAN

18M2/0406

MORGAN & FINNEGAN
345 PARK AVENUE
NEW YORK, NY 10154

R 20154888US3
EXAMINER

DADIO.S

ART UNIT PAPER NUMBER

4

1808
DATE MAILED:

04/06/95

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

for restriction purposes only

☒ This application has been examined ☐ Responsive to communication filed on ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 1 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☐ Notice of References Cited by Examiner, PTO-892.
- ☒ Notice of Draftsman's Patent Drawing Review, PTO-948.
- ☐ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☐

Part II SUMMARY OF ACTION

- ☒ Claims 1-23 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
- ☐ Claims _____ have been cancelled.
- ☐ Claims _____ are allowed.
- ☐ Claims _____ are rejected.
- ☐ Claims _____ are objected to.
- ☒ Claims 1-23 are subject to restriction or election requirement.
- ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
- ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

EXAMINER'S ACTION

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-13 and 22-23, drawn to a method of producing a population of dendritic cell precursors and the dendritic cell precursors prepared by the method, classified in Class 435, subclass 240.2.

5 II. Claims 14-16 and 18, drawn to a composition comprising a modified antigen, a method of immunizing using the composition, a vaccine comprising the composition and a method of treating autoimmune disease using the composition, classified in Class 424, subclass 184.1.

10 III. Claims 17 and 19, drawn to a composition comprising antigen activated dendritic cells and a method of treating autoimmune disease using the activated cell composition, classified in Class 424, subclass 93.1.

15 *** Claims 20-21 are dependent upon claims 18 or 19. Accordingly, claims 20-21 will be examined with either Group II or III to the extent that they are dependent upon claims which are elected.

The inventions are distinct, each from the other because of the following reasons:

20 The several inventions above are independent and distinct, each from the other, as they have acquired a separate status in the art as a separate subject for inventive effect and require independent searches. The product of Group I (claim 22), which is also produced by the method of Group I, is patentably distinct from the products of Groups II (claim 14 and 16) and III (claim

17). Claim I is drawn to a dendritic cell which is produced by obtaining a dendritic precursor cell tissue source and then culturing the cells *in vitro*. Claims 14 and 16 are drawn to a composition comprising a dendritic cell modified antigen and a vaccine comprising the composition. An antigen is patentably distinct from an animal cell. Claim 17 is drawn to a composition comprising an antigen activated dendritic cell. The activated cell is patentably distinct from an antigen. Furthermore, the antigen activated cell composition is independent and distinct from the dendritic cell precursor which has not been modified. Likewise, the methods of use are materially different in that they use patentably distinct products.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

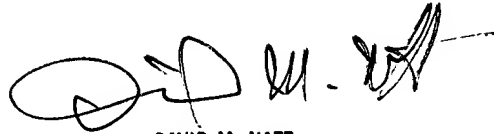
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Susan M. Dadio whose telephone number is (703) 308-2392.

Any inquiry of a general nature or relating to the status of this application should be

Serial No. 08/261,537
Art Unit 1808

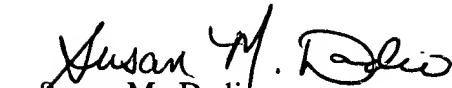
-4-

directed to the Group receptionist whose telephone number is (703) 308-0196.



DAVID M. NAFF
PRIMARY EXAMINER
ART UNIT 1828

5



Susan M. Dadio
April 5, 1995